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Subject: U.S. TRADEMARK APPLICATION NO. 86034124 - VIEWPOINTE - PRIMAL.21002 - Request for Reconsideration Denied - Return to TTAB - Message 1 of 3

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Attachment Information:

Count: 21

Files: evid1-1.jpg, evid1-2.jpg, evid1-3.jpg, evid1-4.jpg, evid2-1.jpg, evid2-2.jpg, evid2-3.jpg, evid3-01.jpg, evid3-02.jpg, evid3-03.jpg, evid3-04.jpg, evid3-05.jpg, evid3-06.jpg, evid3-07.jpg, evid3-08.jpg, evid3-09.jpg, evid3-10.jpg, evid3-11.jpg, evid3-12.jpg, evid3-13.jpg, 86034124.doc

**UNITED STATES PATENT AND TRADEMARK OFFICE (USPTO)  
OFFICE ACTION (OFFICIAL LETTER) ABOUT APPLICANT'S TRADEMARK APPLICATION**

**U.S. APPLICATION SERIAL NO.** 86034124

**MARK:** VIEWPOINTE



**CORRESPONDENT ADDRESS:**

Holly Coldiron

Hutchison PLLC

SUITE 3003110 EDWARDS MILL RD.

RALEIGH, NC 27612

**GENERAL TRADEMARK INFORMATION:**

<http://www.uspto.gov/trademarks/index.jsp>

[VIEW YOUR APPLICATION FILE](#)

**APPLICANT:** 4Qtrs Holdings, LLC

**CORRESPONDENT'S REFERENCE/DOCKET NO:**

PRIMAL.21002

**CORRESPONDENT E-MAIL ADDRESS:**

tmgroup@hutchlaw.com

**REQUEST FOR RECONSIDERATION DENIED**

**ISSUE/MAILING DATE:** 10/17/2016

The trademark examining attorney has carefully reviewed applicant's request for reconsideration and is denying the request for the reasons stated below. See 37 C.F.R. §2.63(b)(3); TMEP §§715.03(a)(ii)(B), 715.04(a). The following refusal made final in the Office action dated is maintained and continues to be final: U.S. Registration No. 3456849. See TMEP §§715.03(a)(ii)(B), 715.04(a). The following refusal made final in the Office action is withdrawn: U.S. Registration No. 3741750. See TMEP §§715.03(a)(ii)(B), 715.04(a).

In the present case, applicant's request has not resolved all the outstanding issues, nor does it raise a new issue or provide any new or compelling evidence with regard to the outstanding issues in the final Office action. In addition, applicant's analysis and arguments are not persuasive nor do they shed new light on the issues. Accordingly, the request is denied.

Specifically, as previously discussed, the applicant's mark is "**VIEWPOINTE**" for "Computer hardware and software consisting of mobile computing and operating platforms that allows for collection and management of emergency location and 911 data for use by emergency management/response personnel to interact, real-time call and incident information, instant messaging, graphical viewing of event and unit locations, event monitoring, community status; Computer hardware and software consisting of mobile computing and operating platforms that allows for support of live, video streaming from fixed and mobile cameras and community-based alerting systems" in Class 009.

The registrant's mark is "**VERTICAL WAVE VIEWPOINT**" (with "wave" disclaimed) for "Intuitive computer based call handling and management software which provides telecommunication system users the ability to place, manage, including voice mail and voice messaging functionalities, and transfer calls and manage contacts through a software interface" in Class 009.

In its Request for Reconsideration, applicant amended its identification of goods to overcome the previously issued refusal removing "the goods to which the refusal pertains, specifically, "call coordination". However, as previously discussed in the Final action, with respect to applicant's and registrant's goods, the question of likelihood of confusion is determined based on the description of the goods stated in the application and registration at issue, not on extrinsic evidence of actual use. See *Stone Lion Capital Partners, LP v. Lion Capital LLP*, 746 F.3d 1317, 1323, 110 USPQ2d 1157, 1162 (Fed. Cir. 2014) (quoting *Octocom Sys. Inc. v. Hous. Computers Servs. Inc.*, 918 F.2d 937, 942, 16 USPQ2d 1783, 1787 (Fed. Cir. 1990)).

Absent restrictions in an application and/or registration, the identified goods are "presumed to travel in the same channels of trade to the same class of purchasers." *In re Vittera Inc.*, 671 F.3d 1358, 1362, 101 USPQ2d 1905, 1908 (Fed. Cir. 2012) (quoting *Hewlett-Packard Co. v. Packard Press, Inc.*, 281 F.3d 1261, 1268, 62 USPQ2d 1001, 1005 (Fed. Cir. 2002)). Additionally, unrestricted and broad identifications are presumed to encompass all goods and/or services of the type described. See *In re Jump Designs, LLC*, 80 USPQ2d 1370, 1374 (TTAB 2006) (citing *In re Elbaum*, 211 USPQ 639, 640 (TTAB 1981)); *In re Linkvest S.A.*, 24 USPQ2d 1716, 1716 (TTAB 1992).

In this case, the identification set forth in the application and registration has no restrictions as to nature, type, channels of trade, or classes of purchasers. Therefore, it is presumed that these goods travel in all normal channels of trade, and are available to the same class of purchasers. Further, the registration uses broad wording to describe the goods and this wording is presumed to encompass all

goods of the type described, including those in applicant's identification. Here, the registrant's "intuitive computer based call handling and management software which provides telecommunication system users the ability to place, manage, including voice mail and voice messaging functionalities, and transfer calls and manage contacts through a software interface" could be in the field of applicant's hardware and software, namely, collection and management of emergency location and 911 data, and could also allow for live, video streaming from fixed and mobile cameras and community-based alerting systems.

Please see previously included evidence which illustrates how software for presenting/displaying data, telephony, and call handling/management can be related to emergency cases and 911 data. The evidence includes Database Systems Corp, Aura Call Reporting, ECM, Inova Solutions, Alpha Communications. The previously attached evidence also included Wikipedia VoIP definition which states: The VoIP E911 system is based on a static table lookup. Unlike in cellular phones, where the location of an E911 call can be traced using assisted GPS or other methods, the VoIP E911 information is only accurate so long as subscribers, who have the legal responsibility, are diligent in keeping their emergency address information current.

Additionally, please see evidence attached hereto, which includes websites from SplitCam, TrueConf, Telebreeze, NICE, Dyplex, Capterra website listing "Top 10 Calling Center Software", Article discussing 10 Video and Voice Call Apps. This evidence shows how computer software and hardware for calling/messaging data and streaming emanates from and/or travels in the same trade channels as software for telecommunication systems.

If applicant has already filed a timely notice of appeal with the Trademark Trial and Appeal Board, the Board will be notified to resume the appeal. See TMEP §715.04(a).

If no appeal has been filed and time remains in the six-month response period to the final Office action, applicant has the remainder of the response period to (1) comply with and/or overcome any outstanding final requirement(s) and/or refusal(s), and/or (2) file a notice of appeal to the Board. TMEP §715.03(a)(ii)(B); see 37 C.F.R. §2.63(b)(1)-(3). The filing of a request for reconsideration does not stay or extend the time for filing an appeal. 37 C.F.R. §2.63(b)(3); see TMEP §§715.03, 715.03(a)(ii)(B), (c).

/tfrazier/

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Products

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## Free Video Calls FullHD

Video Call FullHD is a video conferencing mode involving two participants. Both users can see and hear each other during a video call. Collaboration tools are available. Video streams are transmitted directly between users, not through the server. The highest supported resolution is FullHD (1080p).

Video Call FullHD is available in	
 <b>TrueConf Server 4.3.7</b> Over LAN / VPN / Internet	 <b>TrueConf Online</b> In the cloud



### Superb FullHD Video

High definition video calling simulates a real-life conversation. Video call transmits emotions of interlocutors like mimics and gesture and provides relevant visual contact.



## Crystal Clear Sound

Modern Opus audio codec easily adapts to your bandwidth changes ensuring the best possible quality under unstable communication conditions. You can hear your interlocutor as well as if he were sitting opposite to you.



## Client Applications for All Major OS

Stay connect always and everywhere! We are offering free client applications for Windows, OS X, Linux, Android and iOS. Turn your device into a video conferencing endpoint.

[Download the client application](#)

See also [WebRTC conferencing through a browser](#)

## Increased Collaboration Efficiency

The following tools are available during a video call:

- Video content and applications capturing and streaming directly to the conference
- Slide shows and presentations
- Video conference recording
- Instant messaging



[View all features -->](#)



## Absolute Confidentiality and Security

Use TrueConf Server for video calls in your LAN. No more traffic interception, unauthorized access to media and equipment. Your conversations are reliably protected by our server!

[Learn more about TrueConf Server](#)

### Tutorials

[How to Make a Video Call on Windows?](#)

Making a video call on MS Windows is easy! To do this, you need to download TrueConf Online or TrueConf Client (if you are a user TrueConf Server) video conferencing client application on your PC and follow our manual.

[How to Make a Video Call on OS X?](#)

TrueConf for OS X client application allows you to make free video calls in HD quality to any device with TrueConf application installed. Select a desired user from an address book and call him right away.

[How to Make a Video Call from Android?](#)

Especially for Android devices we have released TrueConf Mobile client application, which allows users to make video calls and create multipoint video conferences. The application is compatible with all TrueConf products.

[How to Make a Video Call from iOS?](#)

During a video call from TrueConf Mobile for iOS (iPhone, iPad), you can change the camera, disable video broadcasting and turn off microphone. In addition, during a 1-on-1 video conference users can exchange text messages in chat.

[What are the System Requirements for HD Video Calls?](#)

TrueConf client applications allow making video calls of any possible quality - from SD to FullHD. In this section, you can learn more about the recommended system requirements for video calls in TrueConf applications for desktop and mobile devices.

- Products
- TrueConf Server Free
- TrueConf Server
- TrueConf Online
- TrueConf Enterprise
- TrueConf Terminal

- TrueConf Terminal
- TrueConf SDK
- TrueConf Client Apps
- HD Video Conferencing
- Free Video Conferencing Software
- Video Conferencing
- What is Video Conferencing
- Video Conference Types
- Collaboration Tools
- SVC Technology
- System Features
- Network Capabilities
- Security
- Support
- Registration
- Password Assistance
- Knowledge Base
- Bandwidth Requirements
- System Requirements

• Social networks



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Our Apps



Download the free TrueConf mobile app for video conferencing and start communicating right away!

**SplitCam** Your webcam can do more!

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Add cool webcam effects and have fun!  
Add copyright or other text to your video!  
Make holiday spirit visible in your webcam!

Add thousands of fantastic effects to your webcam video:



and more

**Download now it's free!**  
ver. 7.4.4.1



**SplitCam webcam software.**  
**Why do I need to use it?**

SplitCam webcam software offers cool webcam effects for having more positive emotions during video calls with your friends! Additionally SplitCam is the easiest way to split your webcam video stream. With SplitCam you can video chat with all your friends. SplitCam is also live video

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218

**Splitcam Blog**  
NEW SplitCam 7.4.4.1

splitcam gives ultimate optimization to your pc, making streaming software - stream your video to any IMs and video services and all this at the same time! More info . . .

#### Cool webcam effects software

☺ Add our effects to your webcam video in video chat and have fun with your friends! It's a real positive emotions source!

#### Video splitting to several programs

☺ Feel free to use your webcam in several applications without receiving "webcam busy" error. Believe your webcam can do more!

#### Realistic 3D Masks

☺ Replace whole your head with some 3D object! Just imagine virtual elephant or some other animal head on your shoulders that repeats all your real head movements. Also you can apply some famous movie 3D like Darth Vader.

#### All popular services support

☺ Skype, Windows Live Messenger, Yahoo messenger, AOL, AIM, ICQ, Camfrog, Gtalk, YouTube, Justin.tv, Ustream, Cam2ap and Chatroulette, ooVoo, and more . . .

#### Streaming to popular services

☺ SplitCam webcam software allows live video streaming to Livestream, Ustream, Justin.tv, TinyChat and other services in few clicks and using all SplitCam features. Make your streaming more bright and texy!

#### HD video broadcast and many video resolutions support

☺ Stream video from your HD camera without video quality loss. Select needed resolution manually from most popular resolutions list: 320x180, 320x240, 400x225, 400x300, 512x384, 640x360, 640x480, 800x600, 960x540, 1024x768, 1280x720, 1280x960, 1400x1050, 1600x900, 1600x1200, 1920x1080, 1920x1440, 2048x1536

#### Different video stream sources

☺ With SplitCam you can stream webcam, video file, slideshow and desktop full desktop or selected part of it!

New features: 1. Full compatibility with MS Windows 10. 2. Decreased time for AD load. 3. Corrected SplitCam Menu. 4. Corrected Help. 5. Added dual si... [ read more ]

#### NEW SplitCam 7.2.4.1

New features: 1. Added some optimization for resize methods. 2. CPU loading decreased on 5-10%. 3. Added the additional frame resolutions in SplitCam. [ read more ]

New Release! SplitCam 6 is now available!

Minimal SplitCam requirements 1. Microsoft Windows XP (and later) 2. CPU: Intel Dual Core (or equivalent) 3. 2 GB RAM Recommended SplitCam requirement... [ read more ]



Be the first of your friends to like this

(full desktop or selected part of it!)

- Use IP camera as a source**  
Connect to any IP camera and send it as a video source instead your webcam to IMs and video streaming services.
- Useful little video features**  
Record your video without special professional software and upload it to YouTube in a few clicks directly from SplitCam window!
- Zoom video feature**  
Zoom your video in SplitCam and stream only needed part of it. Zooming with keyboard and with mouse available.

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274 SHARES

## 10 Video and Voice Call Apps to Hang out with Friends

Smartphones have totally changed the way we use a gadget. Modern phones with good Internet connection provide free alternatives to voice and video calls. Here's a list of excellent video calling apps for iPhone, Android, Windows Phone and BlackBerry that let you make a direct call to your friend or start a group video conversation.

### SKYPE



**Skype** is one of the oldest and most famous apps for calls. There are official Skype apps for Android, iOS, BlackBerry, Amazon Fire Phone. Also it's

<http://www.freemake.com/blog/best-free-video-and-voice-call-apps-for-iphone-and-android/>  
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Skype is one of the most used and most popular apps for video calls. There are other Skype apps for PlayStation 4, Microsoft Zune, and even Roku. Skype is also available for computer platforms – Windows, Mac and Linux, and even smart TVs, PlayStation Vita, Xbox One and other devices. Apart from **voice and video calling**, it allows sharing files and sending messages between the devices using Skype. It also offers low cost calling and texting to mobiles or landlines. The unique Skype feature is the ability to make online group video calls. Just create a group out of your Skype contacts and tap the Camera sign to launch a video chat.

[Download for Skype for Android](#) | [Download Skype for iPhone](#)

SEE ALSO:

[Video Call Quick Fix Guide: iPhone Camera not Working](#)

## FACEBOOK MESSENGER

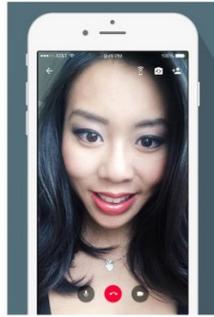


Facebook Messenger is another free app for iPhone, Android and Windows Phone to make video calls on the go. Messenger is easy to use. Tap a contact from the Messenger app list and hit the video button to start a video call. You can make a video call to anyone within Facebook network around the globe, including video calls from iPhone to Android and vice versa. All calls are free, but you have to pay for Internet data. The app let use both front and rear cameras for video recording. Unfortunately, in Facebook Messenger there are no group video calls like in Skype or Google Hangouts. So if

you want to talk to several friends at a time, you'd better choose a Microsoft or Google app.

Explore all Messenger features at [www.messenger.com](http://www.messenger.com).

### GOOGLE HANGOUTS



Google revamped its communication service – Google Talk to Hangouts. Hangouts has turned into a universal messenger app for Gmail, Google+, Android and iOS users. Now you can do audio and video calls, text messaging, file sharing, real-time video streaming and much more. One can talk to up to 10 people simultaneously. The images shared during a call are saved in a private Google+ album, making it easier to access them later. Google Hangout is, probably, the only real Skype competitor in video calling.

Download [Hangouts for Android](#) | Download [Hangouts for iPhone](#)

#### SEE ALSO:

[Video Call Quick Fix Guide: iPhone Sound not Working](#)

### APPLE FACETIME



Apple Facetime is a default free video call app for all iOS users. You can communicate with anyone who has an Apple device from your Mac, iPhone, iPod Touch or iPad. Thanks to new Continuity feature in iOS 9+, you can start video call on one iDevice and continue it on your second Apple gadget without interruptions. Don't forget that you can always **record iPhone calls**

Check our detailed Facetime guide and [learn how to use Facetime](#).

#### LINE



<http://www.freemake.com/blog/best-free-video-and-voice-call-apps-for-iphone-and-android/>  
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Line is an extremely popular **chat app for iPhone, Android, BlackBerry, Windows Phone** and PC. It also has a face-to-face video call option. The app workflow is similar to Facebook: tap a person name from Line list and hit the Camera sign. Like in Facebook Messenger, all video calls between Line users are 100% free. There are no group video calls. However, if you can pay extra money, Line enables you to make audio calls to landline phones and call phones out of Line network.

Visit [www.line.me](http://www.line.me) to download a Line app for your smartphone.

**SEE ALSO:**

**[Video Call Quick Fix Guide: iPhone Keyboard not Working](#)**

**VIBER**



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Similar to Skype, Viber is a free calling app available for almost all operational systems: Windows and Mac, and also mobile devices like Blackberry, Windows Phone, Android and iPhone, iPad. One can use Viber for sharing contacts, files, messages, emoticons, locations, etc. It also allows group audio calls for up to 40 participants. You can make video calls to your Viber contacts. Simply tap the Camera sign next to a person's name and start talking.

[Download Viber for Android](#) | [Download Viber for iPhone](#)

## TANGO



This app is available for Android, iOS and WP and Windows OS computers as well. It offers usual features of voice and video calling, sending messages, animations, files, etc. One interesting thing about Tango is the Mini Games which can be played even during the call. You can challenge the caller on the other end in the real-time.

Download [Tango for Android](#) | Download [Tango for iPhone](#)

## KAKAOTALK



KakaoTalk is made for almost all mobile platforms Android, iOS, Blackberry, Windows Phone and even Bada. It has voice and video calls, messaging, sharing multimedia content, etc. The app also acts as a reminder for scheduling appointments. To add little bit of fun, the app has in-built games and some voice filters like **Talking Tom**, **Talking Ben**, etc. KakaoTalk also allows users to follow celebrities/brands such as Psy through 'Plus Friend' feature and get updates from them. To see the celebs that can be added, go to the Find Tab and select View All, and simply tap the Add option against any of them.

Download [KakaoTalk for Android](#) | Download [KakaoTalk for iPhone](#)

## WECHAT



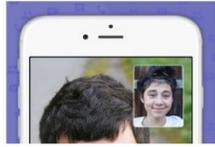
<http://www.freemake.com/blog/best-free-video-and-voice-call-apps-for-iphone-and-android/>  
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While WeChat is essentially an instant messaging app available for all mobile platforms, it also provides several innovative ways for voice / video calling. Live Chat feature contains conference calling feature and it ensures that only one person talks at a time. Video Call, as the name suggests, is for talking in the video mode. It also has a Voice Chat feature which streams voice messages; this last thing is useful particularly when the other person is not online.

Download [WeChat for Android](#) | Download [WeChat for iPhone](#)

**OOVOO**





ooVoo's is a simple cross platform voice and video calling app available for major mobile platforms and desktop OS. Similar to other apps, ooVoo sends messages, makes voice and videos. Like Skype, ooVoo permits you to call landline numbers through ooVoo credits. It also integrates with Facebook, so you can chat with friends from the social network. The best part about the app is that it makes group video calls with up to 12 people simultaneously.

Download [ooVoo for Android](#) | Download [ooVoo for iPhone](#)

What video calling app do you use? Tell us in comments!

#### COMMENTS

comments

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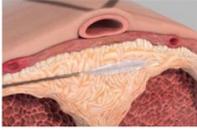
The 13 Sexiest and Most Naked Celebrity Selfies



4 Hidden Dangers Of Low Energy



The Walk Of Shame (35 Photos)





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Yolki ED



13 Moves Where They Really Hid It



Do This Before Bed Tonight to Burn Belly Fat All  
Night Long





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